IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22/08/2002

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

CRIMINAL ORIGINAL PETITION NO.25006 OF 2000
AND
CRL.M.P.No.9649 and 9650 of 2000

M.L.S.Rao
Occupier
M/s.Addison & Co. Ltd.,
No.4, 18 & 19, Smith Road,
Chennai 58. .. Petitioner

-Vs-

State of Tamilnadu rep.by
S.Ambalavanan,
Inspector of Factories,
III Circle,
Chennai 600 006. .. Respondent

This Criminal Original Petition is filed under S.482 of Code of Criminal Procedure to call for the records relating to C.C.No.9844 of 200 0 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai 8 , and quash the same.

For Petitioner : Mr.T.Duleep Sing
for M/s.King and Patrdige

For Respondent : Mr.E.Raja,
Additional Public Prosecutor

:ORDER

What is challenged herein is the criminal proceedings pending in C.C.No.9844 of 2000 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai 8.

2. The respondent herein filed a complaint under The Factories Act 1 948 and The Tamil Nadu Factories Rules 1950 against the petitioner stating that the petitioner's factory was inspected by the Deputy Chief Inspector of Factories, II Division, Chennai 6 on 18.8.2000 at 10.30 A.M., and he found that the said factory failed to comply with the provisions of the said Act and Rules thereunder; that no documents for having obtained the storage approval from appropriate authorities have been produced in respect of the storage at

the said premises, and thus, the petitioner has contravened S.38(3) read with Rule 61(7) and S.45 read with Rule 64(3).

3. Heard the learned Counsel for the petitioner as well as the learned Additional Public Prosecutor and perused the materials on record.

4. Arguing for the petitioner the learned Counsel would submit that the petitioner company is strictly adhering to the Factories Act and its Rules, and thus, no contravention can be alleged against them; that it is pertinent to note that the diesel or flammable liquid are stored in underground storage tanks as contemplated under Petroleum Rules 1976, and necessary licence has also been obtained; that it has to be noted that the complaint does not reveal any specific allegation against the petitioner; that the respondent has simply reproduced the sections and rules in the said complaint; that only after full satisfaction that prima facie case has been made out in the complaint, the trial court can take cognizance of the offence; that the lower court has issued summons to the petitioner without looking into the aspects of the matter; that in the absence of any specific allegation against the petitioner, it is highly impossible for them to defend the same; that making a person to defend ambiguous charges is violative of Articles 14 and 21 of The Constitution of India; that the trial court is not justified in issuing summons to the petitioner, when the impugned complaint itself is unsustainable in law, and under the circumstances, the complaint has got to be quashed.

4. Countering to the above contentions of the petitioner's side, the learned Additional Public Prosecutor would urge that what are all the requisites expected by law have been provided in the complaint; that it is a case where the petitioner has clearly violated the provisions of The Factories Act, 1948 and Tamil Nadu Factories Rules, 1950; that the lower court was perfectly correct in taking cognizance of the offence and in issuing summons to the petitioner; that the present petition is devoid of merits, and the same is liable to be dismissed.

5. After hearing both sides and after careful scrutiny of the available materials, the court is of the view that it is a fit case to quash the impugned complaint.

6. At the outset, it has to be necessarily pointed out that though it has been mentioned in the complaint what is placed in the hands of the Court, that there has been a violation of S.38(3) read with Rule 61(7) and S.45 read with Rule 64(3), the court is able to see the reproduction of those Sections and Rules. A perusal of the impugned complaint would show that there is no specific allegations made against the petitioner, and in the absence of the same, the petitioner could not defend the case. It is significant to note that the impugned complaint does not reflect how the Sections and Rules thereunder are violated by the petitioner and what is exactly the act done by them. In the instant case, the necessary requisites expected by law, are absent, and hence, it cannot be stated that a prima facie case has been made out in the complaint.

7. The argument advanced by the learned Additional Public Prosecutor that a qualified Medical Practitioner in charge of the Ambulance Room was not present during all the working days of the factory, and the same has led the respondent to file a complaint against the petitioner is neither convincing nor acceptable. From the materials on hand, it would be abundantly clear that though a complaint was put forth before the court below, it does not either

disclose the acts done by the petitioner leading to the violation, or give an opportunity to the petitioner to defend the case. Under such circumstances, the court is of the view that the trial court was not justified in taking

the complaint on file and hence, without any hesitation whatsoever, the impugned complaint has to be quashed.
8. In the result, this petition is allowed. The proceedings in C.C. No.9844/2000 on the file of the Chief Metropolitan Magistrate, Chennai, is quashed. Consequently, connected Crl.M.Ps. are closed.

Index: Yes
Internet: Yes
22-8-2002
To:
1. The Chief Metropolitan Magistrate,
Egmore,
Chennai 8.
2. The Inspector of Factories III Circle,
Chennai 8.
3. The Public Prosecutor, Chennai.

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